

AUCTIONEERS BOARD MEETING

MINUTES

The Virginia Auctioneers Board met on October 5, 2006, at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia, with the following members present:

G. Thomas Garten
Mark T. Motley
Amy Pence
James H. Perkinson
Erlita Joanne Wang

Staff present for all or part of the meeting were:

Jay W. DeBoer, Director
David Ashe, Chief Deputy
Mark N. Courtney, Executive Director
Marian H. Brooks, Board Administrator
Earlyne Perkins, Legal Analyst
Michelle Gowen, Administrative Assistant

Elizabeth Peay of the Office of the Attorney General was present for all or part of the meeting.

Finding a quorum of the Board present, Mr. Perkinson, Chair, called the meeting to order at 10:08 a.m.

Call to Order

Mr. Courtney introduced new Board counsel from the Attorney General's Office, Elizabeth Peay, and welcomed her.

Introduction of Elizabeth Peay

Mr. Motley moved to approve the agenda as amended. Ms. Wang seconded the motion which was unanimously approved by members: Garten, Motley, Pence, Perkinson, and Wang.

Approval of Agenda

Ms. Wang moved to approve the minutes from the July 6, 2006, Board meeting. Mr. Garten seconded the motion which was unanimously approved by members: Garten, Motley, Pence, Perkinson, and Wang.

Approval of Minutes

Mr. Motley moved to approve the minutes from the August 16, 2006, Informal Fact-Finding Conference. Ms. Wang seconded the motion which was unanimously approved by members: Garten, Motley, Pence, Perkinson, and Wang.

Mr. Perkinson read the following rules for the public hearing:

Public Hearing on Proposed Continuing

Education
Regulations

“Good morning ladies and gentlemen. I am J. Hartwell Perkinson and I am the Chairman of the Auctioneers Board.

“This is a public hearing held at the Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, Virginia. This hearing is being held pursuant to § 2.2-4007 of the Administrative Process Act of the Code of Virginia for the purpose of receiving public comment on the Board's proposed regulations published in the Virginia Register on Monday, September 4, 2006.

“The list of interested parties and organizations which were notified of this process and invited to comment is available upon written request.

“The staff of the Department of Professional and Occupational Regulation will prepare a report of all public comment received which will be presented to the Board for consideration of any revisions to the proposed regulations.

“Please allow me to introduce the members of the Auctioneers Board at this time, they are: Mark Motley, Motley’s Auction and Realty Group, Richmond, VA; Amy Pence, Vienna, VA; Joanne Wang, Annandale, VA; and Tommy Garten, Greenway’s Real Estate and Auction Company, Covington, VA.

“Now I would like to present the rules for this public hearing -

“Comments will be received from any member of the public and initial comments will be limited to a maximum of 5 minutes depending on the number of individuals who wish to speak. If you have not signed up to speak and you wish to give testimony today, please sign your name on the sign up sheet at this time.

“We will be using the light box this morning to assist you in being aware of the allotted five minutes – the green light will be on for the first four minutes, the yellow light will come on when one minute remains, and then the red light will come on when the five minutes are up and your testimony will need to end.

“Board members may ask speakers questions or to clarify statements. However, this is not the proper forum for questions to the Board. If you have a question for the Board, please forward them in writing, to the Board.

“Any speaker, who wishes to provide a written statement in addition to his oral testimony, or in lieu of oral testimony, may do so until Friday,

November 3, 2006.”

There were no comments made to the Board.

“The record of the public hearing will be kept open until Friday, November 3, 2006, and written comments will be accepted through 5:00 p.m. that day. This hearing is now closed.”

Mr. Dodson, complainant, was present to ask how the Board came up with the \$10,000 figure that Zedd Auctioneers, LTD, is to repay him according to the Consent Order.

File Number 2006-01853, Zedd Auctioneers, LTD

At 10:25 a.m., Mr. Motley moved that this meeting be recessed and that the Board immediately reconvene in closed meeting for the purpose of deliberation on disciplinary cases resulting from Informal or Formal Hearings in order to reach a decision as permitted by § 2.2-3711.A.28 of the *Code of Virginia*. The following non-members will be in attendance to reasonably aid the consideration of the topic: David Ashe, Mark Courtney, Marian Brooks, Elizabeth Peay, and Earlyne Perkins. This motion was made with respect to the matter identified as agenda item: #7, 2006-01853, Zedd Auctioneers, LTD.

Closed Meeting

At 11:18 a.m., Mr. Motley moved to adjourn the closed meeting and immediately reconvene in open meeting. Ms. Pence seconded the motion which was unanimously approved by members: Garten, Motley, Pence, Perkinson, and Wang.

Open Meeting

The Board members took a break from 11:20 a.m. to 11:28 a.m.

Break

WHEREAS, the Auctioneers Board has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

Certification of Closed Meeting

WHEREAS, § 2.2-3712 of the Code of Virginia requires a certification by this Auctioneers Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Auctioneers Board hereby certifies that, to the best of each member’s knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Auctioneers Board.

VOTE: 5-0-0

AYES: Garten, Motley, Pence, Perkinson, Wang

NAYS: None.

ABSENT DURING VOTE: None.

ABSENT DURING MEETING: None.

Regarding file number **2006-01853, Zedd Auctioneers, LTD**, the Board members reviewed the Consent Order as seen and agreed to by Zedd Auctioneers, LTD. Mr. Motley moved to accept the Consent Order which cites a violation of 18 VAC 25-21-180.A.4 of the Board's 2002 regulations. In addition, Zedd Auctioneers, LTD, agrees to revocation of its license. However, the Board agrees to suspend imposition of the revocation based on the following terms: 1) Zedd Auctioneers, LTD, is to reimburse \$10,000.00 to Thomas Dobson and provide the Board with proof of the payment within thirty (30) days of the effective date of this order. 2) Zedd Auctioneers, LTD, is placed on probation for a period of two (2) years from the effective date of this order. During this two (2) year probation period, Zedd Auctioneers Ltd is not to violate any law or regulation of the Board. 3) Zedd Auctioneers, LTD, pays \$500.00 in Board costs within thirty (30) days of the effective date of this order. Ms. Wang seconded the motion which was unanimously approved by members: Garten, Motley, Pence, Perkinson, and Wang.

File Number 2006-01853, Zedd Auctioneers, LTD

Public Comment Period – No comments were made to the Board members.

Public Comment

Mr. Courtney updated the Board members on the status of the Auctioneers Board continuing education regulations.

Update on Status of Continuing Education Regulations

The Board members were provided with a copy of the changes requested by the Governor's office. After review and discussion, Mr. Motley moved that the Board readopt the amended proposed regulations. Mr. Motley further moved to authorize staff, in conjunction with the Chair, to make any minor changes as necessary, on behalf of the Board, so that the regulations can be approved. Ms. Pence seconded the motion which was unanimously approved by members: Garten, Motley, Pence, Perkinson, and Wang.

Update on Status of General Review of Regulations

Ms. Brooks updated the Board members on the status of the fee decrease regulations.

Update on Fee Decrease Regulations

Mr. Motley moved to approve the following meeting dates for 2007 with the exception of the April 12, 2007, meeting due to a conflict:

Set 2007 Meeting Dates

Thursday, January 18, 2007

Thursday, April 12, 2007 (to be changed to either April 5 or April 19)

Thursday, July 12, 2007

Thursday, October 18, 2007.

Ms. Pence seconded the motion which was unanimously approved by members: Garten, Motley, Pence, Perkinson, and Wang.

Mr. Courtney provided the Board members with training on the roles and responsibilities of members of the Board.

Board Member Training

The Board members were provided with the August 2006 financial statements for informational purposes.

Review Financial Statements

Mr. Motley nominated J. Hartwell Perkinson as Chair for the term of July 1, 2006 to June 30, 2007. Mr. Garten seconded the motion which was unanimously approved by members: Garten, Motley, Pence, Perkinson and Wang.

Other Business

Mr. Garten nominated Mark Motley as Vice-Chair for the term of July 1, 2006 to June 30, 2007. Ms. Pence seconded the motion which was unanimously approved by members: Garten, Motley, Pence, Perkinson, and Wang.

Ms. Brooks informed the Board members that the next edition of *Auction Digest* will be e-mailed to them for review next week and published on the Department's website by the end of October 2006.

Mr. Courtney informed the Board members that VAA has invited him to speak at their next annual meeting in southwest, VA, in January 2007.

Conflict of Interest forms were completed by all members present.

Conflict of Interest Forms

There being no further business, the meeting was adjourned at 12:04 p.m.

Adjourn

J. Hartwell Perkinson, Chair

Jay W. DeBoer, Secretary